

Remarks/Arguments:

Claim 12 has been amended to correct a typographical error. Specifically, the word "root" has been replaced with the word "room." Support for this amendment can be found at least in the claims as originally filed.

Claims 1-18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2002/0077865 (Sullivan) in view of U.S. Patent No. 6,151,581 (Kraftson).

Applicant disagrees that the subject claims are unpatentable. Applicant notes that in order to support a rejection under 35 U.S.C. 103(a), the Examiner must show that the cited art satisfies each and every limitation of the rejected claim:

When determining whether a claim is obvious, an examiner must make "a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art." *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) [emphasis added]. Thus, "obviousness requires a suggestion of all limitations in a claim." *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974))."

Ex Parte Wada and Murphy, Appeal No. 2007-3733, Bd. Pat. App. & Inter., January 14, 2008. Because the Examiner's asserted combination of art fails to satisfy at least one limitation of Applicant's claim 1, the obviousness rejection is improper and should be withdrawn.

Specifically, the Examiner concedes that Sullivan "does not explicitly teach a plurality of dependent questions based on a response to said main question and responses to previous dependent questions." That is, Sullivan fails to satisfy at least the following limitation of claim 1:

"...further operable to present on said touch screen at least one main question and a plurality of dependent questions presented based on a response to said main question and responses to previous dependent questions..."

The Examiner relies on Kraftson to provide the elements lacking in Sullivan. In particular, the Examiner asserts that Kraftson provides the above-recited element at column 6, lines 19-31. The cited passage of Kraftson is reproduced below for convenience:

"FIG. 1 further shows a second data collection section based on a hand-held computer data collection process. The system includes a remote Electronic Patient Data-collection System (E-PDS) 103 based on a hand-held computer which provides electronic forms that are to be completed by a patient and/or physician during a treatment session at a physician's practice 120, a host device 107, which may be implemented on a personal computer, for reading the survey information responses from the E-PDS 103 and translating these into a Physician/Patient data, an E-PDS Interface 114 for information downloading from/uploading to the E-PDS 103 through host device 107, and a Forms Library 115 for storing electronic forms to be loaded into E-PDSs 103."

Applicant notes that in the above passage, Kraftson merely describes the handling of "electronic forms" and does not provide a "main question" or any "dependent questions" as recited in Applicant's claim 1. In fact, Kraftson does not discuss "questions" of any sort in this passage. Kraftson therefore clearly cannot "present on said touch screen at least one main question and a plurality of dependent questions presented based on a response to said main question and responses to previous dependent questions." In fact, neither the portion of Kraftson reproduced above nor any other portion of Kraftson makes any mention whatsoever of presenting questions based on responses to any other questions.

On the contrary, Kraftson describes static forms as shown in Figures 2B and 2C, in which all questions are presented at all times. In other words, every question in any given form is always presented, regardless of any responses to any previous questions.

Applicant notes that similar arguments were submitted in Applicant's letter of April 23, 2009. In that letter, Applicant argued that Sullivan failed to satisfy the very same element of claim 1 at issue in the present Response. The reasons given by Applicant were that Sullivan describes only "fixed, unchanging templates in which all fields are presented at all times." Referring to Sullivan's Figure 2, the similarities between Sullivan's templates and Kraftson's forms are clear – in both references, a complete, static set of questions or fields is presented without any suggestion of dependence on any previous responses.

In addition to the above, Applicant submits that Sullivan also fails to satisfy at least the following elements of claim 1:

"said device further operable to generate an intake report based on said responses in a preferred language of a hospital staff member responsible for further processing of said intake of said patient"

The Examiner alleges that the above-recited element is provided by Sullivan's abstract and paragraph 125. As argued in the Amendment of September 26, 2008, neither the cited portion of Sullivan nor any other portion make any mention of intake reports. Sullivan provides reports that cannot possibly be intake reports, as they depend entirely on events which take place after patient intake (patient discharge, for instance – see paragraph 132 of Sullivan). Sullivan's reports, as described at paragraph 134, are used for the purposes of "assessments, teaching, litigation, etc. regarding what actions were specifically taken by the user, and whether certain observations were made." There cannot have been any "actions taken by the user" until after patient intake is already complete.

For at least the above reasons, the Examiner's rejection of claim 1 cannot be maintained and should be withdrawn. Claim 1 is therefore patentable, as are claims 8, 15 and 16 which contain similar elements to those of claim 1. All remaining claims are dependent on one of claims 1 and 16, and are therefore also patentable for at least the above reasons.

Conclusion:

Applicant believes that this application is now in condition for allowance. To the extent that any issues remain to be resolved, however, Applicant requests that the Examiner contact the undersigned to resolve these issues.

The Commissioner is also authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-3750.

Respectfully submitted,



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